CITY OF DORAL
NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **COUNCIL ZONING MEETING** on **August 23, 2023 beginning at 6:00 PM** to consider the proposed site plan modification for the property located at 9950 NW 25 Street. The meeting will be held at the **City of Doral, Government Center, Council Chambers located at 8401 NW 53rd Terrace, Doral, Florida, 33166.**

The City of Doral proposes to adopt the following Resolution:

RESOLUTION No. 23-

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE SITE PLAN MODIFICATION FOR TESLA MOTORS, INC, FOR THE PROPERTY LOCATED AT 9950 NW 25 STREET, DORAL, FLORIDA, PURSUANT TO SECTION 53-184(F) OF THE CITY'S LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE

HEARING NO.: 23-08-DOR-04
APPLICANT: Tesla Motors, Inc. (the "Applicant")
PROJECT NAME: Tesla
PROPERTY OWNER: EV 9900 LLC
LOCATION: 9950 NW 25 Street, Doral, Florida 33172
FOLIO NUMBER: 35-3032-009-0010 & 35-3032-009-0050
SIZE OF PROPERTY: ±5.30 acres
FUTURE LAND USE MAP DESIGNATION: Industrial
ZONING DESIGNATION: Industrial Commercial District (IC)
REQUEST: The Applicant is proposing an electric vehicle service and sales center for Tesla consisting of a showroom, vehicle preparation, vehicle delivery, service, and ancillary office space in the existing 78,026 square foot building.

Location Map

Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL. The application file may be examined at the City of Doral Planning and Zoning Department located at 8401 NW 53 Terrace, Doral, FL 33166.

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, any person who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

Connie Diaz, MMC
City Clerk
City of Doral

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FROM THE COURTS

Federal Court Lifts Attorney Fees Limitation in Civil Rights Cases

by Avalon Zoppo

ADOBE STOCK

The U.S. Court of Appeals for the Fourth Circuit overturned its precedent that barred attorney fee awards for winning preliminary injunctions.

In a win for plaintiffs, the full U.S. Court of Appeals for the Fourth Circuit on Monday lifted its decades-old rule that barred litigants who win a preliminary injunction in subsequently moot civil rights cases from being considered a prevailing party and entitled to attorney fees.

The Richmond, Virginia-based appeals court said its bright-line rule had become "a complete outlier," with other circuits holding that preliminary injunctions can confer prevailing party status.

The judges put forward a new rule: If a party in a civil rights case wins a preliminary injunction that provides "concrete, irreversible relief on the merits," they may be entitled to attorney fees even if the case later becomes moot.

"Although many preliminary injunctions represent only 'a transient victory at the threshold of an action,' some provide enduring, merits-based relief that satisfies all the requisites of the prevailing party standard," wrote Judge Pamela Harris, joined by Chief Judge Albert Diaz and Judges Paul Niemeyer, Robert King, Roger Gregory, James Wynn and Stephanie Thacker.

"Our sister circuits have carefully and thoughtfully engaged with this question ... and the Supreme Court, we note, has not intervened, except to flag the question as one it has left open," Harris continued.

PRECEDENT OVERTURNED

In its 7-4 decision, the en banc court said attorney fees are available for the low-income Virginians who brought a class action over a now-repealed state law that required the automatic suspension of their driver's licenses for unpaid court fines. A lower court blocked the law from being enforced against the plaintiffs, finding it likely violated due process rights under the Constitution's 14th Amendment. But the state legislature later repealed the law, and a judge dismissed the case as moot.

A Fourth Circuit panel last year denied the plaintiffs' bid to be recognized as the prevailing party, finding that the circuit's precedent from 1992 in *Smyth v. Rivero* foreclosed such recognition.

But the majority on Monday said developments in the years since 1992—such as the Supreme Court establishing more stringent merits requirements for issuing preliminary injunctions—meant the Fourth Circuit should revisit its rule.

The majority also worried that *Smyth* could allow government defendants to avoid paying fees by litigating a case through the preliminary injunction phase and then ending their potentially illegal conduct if the court sides with plaintiffs early on.

Here, the majority said the plaintiffs fit the Supreme Court's definition of a prevailing party— one who gets concrete benefit on the merits of their claim. As part of the preliminary injunction order, the court told the state's Department of Motor Vehicles commissioner to reinstate the driver's licenses.

"No matter what happened at the conclusion of the litigation, this injunction, for the time it remained in effect, allowed the plaintiffs to again drive to their jobs and personal engagements, providing concrete, irreversible economic and non-economic benefits that the plaintiffs sought in bringing suit," Harris wrote, noting that not all preliminary injunctions satisfy that standard.

Dissenting, four Republican-appointed judges said a preliminary injunction isn't enough to make a party prevail.

They pointed, in part, to the definition of "prevailing party" in Black's Law Dictionary. Based on that definition, the dissenters said a party must achieve final success and not only the "likely success" acknowledged by preliminary injunctions.

"A court must resolve at least one issue once and for all on the merits, not merely predict how issues are likely to be resolved," wrote Judge A. Marvin Quattlebaum Jr., joined by Judges G. Steven Agee, Julius Richardson and Allison Rushing.

Quattlebaum used a sports reference to drive home his point.

"If anyone doubts that there is a difference between actually prevailing and having a likelihood of success, just ask the Atlanta Falcons—or better yet, their fans. Mid-way through the third quarter of the 2017 Super Bowl, the Falcons had achieved a great deal of success. ... By any measure, the Falcons were likely to succeed. But they had not prevailed," he wrote. "The Patriots came back to win 34-28, the largest comeback in Super Bowl history. Likelihood of success is just not the same thing as prevailing."

The plaintiffs were represented by McGuireWoods attorneys Jonathan T. Blank and John J. Woolard, Smithfield Foods attorney Tennille J. Checkovich and the Legal Aid Justice Center.

"We are gratified by the Court's decision, which overturned the outlier rule in *Smyth* and adopted the rule we were seeking. This decision upholds our clients' rights and will benefit other civil rights plaintiffs in the future," said Pat Levy-Lavelle, senior intake attorney at Legal Aid Justice Center.

Trevor Cox, a Hunton Andrews Kurth attorney who argued for the state, did not immediately return a request for comment. The Office of the Attorney General of Virginia also did not return a request for comment immediately.

Avalon Zoppo is an appellate courts reporter for the National Law Journal, an ALM affiliate of the Daily Business Review. Contact her at azoppo@alm.com. On Twitter: @AvalonZoppo.